S22

NOTIFICATION.

Order No. L.D. 3359--Legis. 39-50-1, dated 14th March 1951.

Ordered that the accompanying Mysore Survey and Boundaries Act, 1951, which received the assent of His Highness the Maharaja, on the 3rd day of March 1951, be published as Mysore Act No. VIII of 1951, in the *Mysore Gazette* for general information.

MYSORE ACT No. VIII OF 1951.

THE MYSORE SURVEY AND BOUNDARIES ACT, 1951.

(*Received the assent of His Highness the Maharaja on the third day of March* 1951.)

An Act to provide for a survey of lands and settlement of boundary disputes.

Preamble.

WHEREAS it is expedient to provide for the survey and settlement of boundary disputes in the City of Bangalore and other cities, towns and minor municipalities in the State;

It is hereby enacted as follows :—

Short title, extent and commencement.

1. (1) This Act may be called the Mysore Survey and Boundaries Act, 1951.

(2) It extends to the whole of the State of Mysore.

(3) It shall come into force at once and shall apply to such areas and from such dates as may be notified by the State Government in the *Mysore Gazette* from time to time.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*a*) "land" includes anything attached to the earth or permanently fastened to anything attached to the earth ;

(*b*) "registered holder" of any land means the person in whose name the land in question is registered in the State Government accounts or records or the accounts or records of the municipality :

Provided that when any person other than the registered holder is in lawful management of the land otherwise than as agent or servant of the registered holder or as mortgagee or lessee, such person shall be deemed to be the registered holder in respect of such land ;

(*c*) "survey" includes all operations incidental to the determination, measurement and record of a boundary or boundaries or any part of a boundary and includes a resurvey ;

(*d*) "Survey Officer" means any person appointed to be a Survey Officer under section 3 ;

(*e*) "survey mark" means any mark or object, erected, made, employed or specified by a Survey Officer to indicate or determine or assist in determining the position or level of any point or points.

Explanation.—Where any land is so registered in the names of two or more persons jointly, the registered holder shall, for the purposes of this Act, be the person who is recognised by the other joint-holders of the land or who, in case of dispute, is recognised by the Deputy Commissioner as senior joint-holder.

State Government to appoint Survey Officers.

3. (1) The State Government may, by notification in the *Mysore Gazette*, appoint any person either by name or by virtue of his office, to be a Survey Officer for all or any of the purposes of this Act.

State Government to publish jurisdiction of Survey Officer.

(2) Subject to the control of the State Government and of any officer or authority appointed by it in this behalf, every person so appointed shall exercise and perform the powers and duties of a Survey Officer within such local limits and for such periods of time as the State Government may direct.

(3) The State Government may delegate its powers under sub-sections (1) and (2) to such officer or authority as it thinks fit.

State Government may delegate powers of control.

4. The State Government or, subject to the control of the State Government, any officer or authority to whom this power may be delegated by it, by notification in the *Mysore Gazette*, may order a survey of any land or of any boundary of such land in the City of Bangalore or other cities, towns and minor municipalities in the State.

State Government may direct the survey of any land or of any boundary of such land.

5. (1) When any survey is ordered under section 4, the Survey Officer shall publish a notification in the prescribed manner, inviting all persons having any interest in the land or in the boundaries of which the survey has been ordered, to attend either in person or by agent at a specified place and time and from time to time thereafter, when called upon for the purpose of pointing out boundaries and supplying information in connection therewith.

Notification to be published by Survey Officer.

(2) A notification published under sub-section (1), shall be held to be a valid notice to every person having any interest in the land or in the boundaries of which the survey has been ordered.

6. The Survey Officer shall carry out the survey in the prescribed manner.

Survey Officer to carry out the survey in the prescribed manner.

7. The cost, if any, of the labour employed and of the survey marks used in any survey notified under section 3, shall be determined and apportioned in the prescribed manner among the persons who have any interest in the land or in the boundaries of which the survey has been ordered and shall be recoverable from such persons as an arrear of land revenue. Notice of such determination and apportionment shall be given in the prescribed manner to the persons aforesaid.

Cost to be charged to persons interested in the lands surveyed.

8. (1) The Survey Officer shall have the power to determine and record, as undisputed any boundary in respect of which no dispute is brought to his notice.

Power of Survey Officer to determine and record an undisputed boundary.

Notice to registered holders of lands affected.

(2) Notice of every decision of the Survey Officer under sub-section (1), shall be given in the prescribed manner to the registered holders of the lands the boundaries of which may be affected by the decision.

Power of Survey Officer to determine and record a disputed boundary.

9. (1) When any boundary is disputed, the Survey Officer, after making such enquiry as he considers necessary, shall determine the boundary and record it in accordance with his decision. The Survey Officer shall record in writing the reasons for his decision.

Notice to parties to the dispute and to registered holders of lands affected.

(2) Notice of every decision of the Survey Officer under sub-section (1), shall be given in the prescribed manner to the parties to the dispute and other registered holders of the lands, the boundaries of which may be affected by the decision.

Appeal against orders under section 7, 8 or 9.

10. (1) Any person affected by a decision under section 7, 8 or 9 may appeal to the prescribed officer. The decision of the appellate authority with reasons therefor, shall be recorded in writing and notice of such decision shall be given in the prescribed manner to the parties to the appeal. Any modification of the Survey Officer's decision, ordered by the appellate authority, shall be noted in the record prepared under section 8 or 9, as the case may be.

(2) A copy of the order and a copy of the map recording the boundaries as determined under section 8, 9 or sub-section (1), shall be furnished to any person interested in such order or map, as the case may be, on his application and at his cost.

Period within which appeal should be preferred.

11. (1) An appeal under section 10 shall be preferred within three months from the date of service of notice under section 7, 8 or 9, provided that the time taken to obtain a copy of the decision and of the map, shall not be included in the period of three months allowed for appeal.

(2) No appeal preferred after the expiry of the said period, shall be admitted, provided that the appellate authority may admit an appeal after the expiry of the said period, on his being satisfied that the appellant had good and sufficient cause for not preferring the appeal within such period.

Explanation.—The fact that notice under section 7, 8 or 9 was not served personally on the appellant, shall be deemed to be good and sufficient cause within the meaning of this sub-section.

(3) No appeal shall be admitted under sub-section (2) after the issue of the notification specified in section 12.

Completion of demarcation to be notified.

12. When the survey of any land or boundary which has been notified under section 4 has been completed in accordance with the orders passed under section 8, 9 or 10, the Survey Officer shall notify the fact in the *Mysore Gazette* and a copy of such notification shall be posted in the municipal office of the area to which the survey relates; unless the survey so notified is modified by a decree of a civil court under the provisions of section 13, the record of the survey shall be conclusive proof that the boundaries determined and recorded therein have been correctly determined and recorded.

Institution of a suit in civil court within three years to establish rights claimed in respect of the boundary of the property surveyed.

13. Any person aggrieved by the determination of any boundary under section 8, 9 or 10 may, subject to the provisions of Part II and III of the Mysore Limitation Act, 1911, institute a suit within three years from the date of the notification under section 12, to set aside or modify the said determination and the survey shall, if necessary, be altered in accordance with the final decree in the suit and the alteration, if any, shall be noted in the record.

The plaintiff in such suit shall join as parties to it, all persons whom he has reason to believe to be interested in the boundary which is the subject of the suit.

Registered holder responsible for the maintenance of survey marks.

14. (1) Subject to such conditions as may be prescribed in this behalf, every registered holder of a land shall be bound to maintain, renew, and repair the survey marks on or within the boundaries of his holding, and in default of his doing so, the Survey Officer may, at the cost of the State Government, maintain, renew and repair such survey marks, determine and apportion the cost of so doing and recover such cost as an arrear of land revenue. Such cost may include the cost of all operations incidental to such renewal or repair but not any charges on account of Survey Officers and supervising establishment.

Notice to registered holder.

(2) Before a Survey Officer maintains, renews or repairs any survey marks, he shall serve a notice in writing on the registered holder in the prescribed manner, giving particulars of the survey marks, in respect of which default has been committed and calling upon him to maintain, renew or repair the same within the time to be specified in such notice which shall be not less than fifteen days from the date of service thereof.

Notice to cultivator or other person interested.

(3) If the notice under sub-section (2) cannot be served personally on the registered holder, a copy of the same shall be served also on the tenant or other person interested, in the land.

Duties of municipal authority.

15. It shall be the duty of every municipal authority—

(*a*) to prevent the destruction, injury, removal or alteration of any survey mark on or within the limits of its jurisdiction; and

(*b*) when such municipal authority becomes aware that any such mark has been destroyed, injured, removed or altered, to report the fact to the prescribed officer.

Power to enter upon, examine and clear obstructions on land.

16. For the purpose of any survey, inquiry or other proceedings under this Act, the Survey Officer or any of the subordinates of such officer shall have power to enter upon, examine and measure any land under survey and to clear by cutting down or removing any trees, fences, standing crops or other material obstructions, the boundaries or other lines, the clearance of which may be necessary for the purposes of the survey.

Power to summon witnesses and require production of documents.

17. Any Survey Officer, generally or specially authorised in that behalf, or any officer to whom an appeal is preferred under any of the provisions of this Act may, for the purpose of rendering assistance in the survey of any land, summon and enforce, the attendance of any person who has an interest therein, and may, for the purposes of any survey, inquiry or other proceedings under this Act, summon and enforce the attendance of any person for giving evidence and for the production of documents and the procedure prescribed in the Code of Civil Procedure, 1911, for summoning and enforcing the attendance of witnesses and for the recording of evidence, shall be followed, as far as it can be made applicable.

Reference to arbitration.

18. (1) The Survey Officer may, with the consent of all the parties concerned, refer to arbitration any dispute as to a boundary.

(2) The decision of the Survey Officer passed in accordance with the award of the arbitrator, shall be conclusive between the parties to such arbitration and those claiming under them.

Registered holder may recover expenses paid by him from the owner of the land and may acquire a charge upon the land to that extent.

19. (1) In the absence of a contract to the contrary, a registered holder of any land under survey, who incurs any expenses or from whom any expenses are recovered under this Act, in respect of such survey, shall, if he is not the owner thereof, acquire a charge on such land to the extent of the expenses so incurred or recovered from him with interest thereon, at the rate of nine per cent per annum.

Person claiming an interest may pay charges payable by registered holder and acquire a charge.

(2) It shall be lawful for any person, claiming an interest in any land under survey, to pay the charges payable under this Act in respect of the survey of such land, though he is not the registered holder thereof; and all such sums, if paid by a tenant or lessee, may be deducted from any rent then or afterwards due by him, in respect of such land and if paid by any other person, interested, or *bona fide* claiming an interest in the land, shall be a charge upon such land. Such sum shall bear interest at nine per cent per annum.

(3) When a person entitled under this section to a charge on any land is a co-owner of such land, such charge shall extend only to so much of the amount recovered from or expended or paid by him, as is due, in respect of the share of the other co-owner, in such land with interest at the rate aforesaid.

State Government may make rules under the Act.

20. (1) The State Government may, after previous publication, make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may—

(*a*) prescribe for different localities, the unit of survey, the sub-divisions thereof and the description of the survey marks; and provide for the maintenance, renewal and repair of such marks;

(*b*) provide for the collection and record of any information in respect of any land which has been or is about to be surveyed;

(*c*) define the class of officers to be appointed to do duty under this Act and the powers to be exercised by such officers;

(*d*) prescribe and regulate the procedure to be followed by those officers in conduct of proceedings under this Act;

(*e*) provide for the publication of all notifications issued under this Act and for the form, issue and service of all orders, communications and notices to be issued, communicated, given or served under this Act;

(*f*) regulate the furnishing of survey marks, labour and other matters necessary for a survey, notified under this Act, and the recovery of charges incidental thereto, when they are recoverable;

(*g*) provide for the apportionment of all charges directed to be apportioned by this Act and for the determination of the cost of labour employed and of the survey marks used in any such survey;

(*h*) prescribe the fee payable for processes issued and copies granted under this Act;

(*i*) prescribe the manner in which arbitrators are to be appointed and regulate the procedure to be followed by them.

Immunity for acts done in good faith or purporting to be so done.

21. No suit or other legal proceedings shall lie against any person for anything in good faith done or purporting to be done under this Act.

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,

Legal Remembrancer and
Secretary to Government,
Law Department.